FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554 AUG 1 1 2004

OFFICE OF MANAGING DIRECTOR

William T. Newborg Vice President/GM First Commonwealth Cablevision, Ltd. Post Office Box 1147 Saluda, Virginia 23149

Re: First Commonwealth Cablevision, Ltd. FY 2003 Regulatory Late Charge Penalty Fee Control No. 00000RROG-04-061

Dear Mr. Newborg:

This is in response to your request dated May 24, 2004, filed on behalf of First Commonwealth Cablevision, Ltd. (First Commonwealth), that the Office of Managing Director (OMD) reconsider its decision denying First Commonwealth a waiver of the \$851.46 late charge penalty for late payment of the fiscal year (FY) 2003 regulatory fee. See Letter from Mark A. Reger, Chief Financial Officer, Office of Managing Director, to William T. Newborg (dated May 10, 2004) (First Commonwealth Letter). Our records reflect that you paid the \$851.46 late charge penalty.

In your initial waiver request, you stated that First Commonwealth mailed its FY 2003 regulatory fee on September 19, 2003, well in advance of the September 25, 2003 regulatory fee filing deadline, but that you believed that the Commission's receipt of the payment was delayed due to power outages and other infrastructure damage in the area caused by Hurricane Isabel the day before. You stated that First Commonwealth mailed its check on this date even though its office was operating on minimal backup power for nine days following the hurricane and employees were working extended hours to restore services to customers.

In the First Commonwealth Letter, OMD denied First Commonwealth's request for a waiver of the late charge penalty. OMD explained that the Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner. OMD stated that it is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. OMD found that First Commonwealth's request did not indicate or substantiate that it

met this obligation. OMD therefore denied First Commonwealth's waiver request and stated that the \$851.46 late charge penalty should be submitted within 30 days of the date of the letter. First Commonwealth paid the late charge penalty.

In your petition for reconsideration, you raise the same arguments in support of First Commonwealth's request for waiver of the late charge penalty for late payment of the fiscal year 2003 regulatory fees that you raised in your initial March 10, 2004 waiver request. Specifically, you state that"[w]e believe our position was fairly stated in our previous correspondence and that we made every possible effort to make timely payment of the regulatory fee." We find that OMD's decision in the First Commonwealth Letter denying First Commonwealth's waiver request was correct and that you have provided no additional justification for a reversal of that decision. We therefore deny your request for reconsideration with respect to waiver of the late charge penalty. See 47 C.F.R. §1.106; McLeodUSA Telecommunications Services, Inc., 19 FCC Rcd 6587, paras. 7-8 (2004) (denying application for review requesting waiver of the late charge penalty for late payment of FY 2002 regulatory fees).

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

Mark A. Reger

Chief Financial Officer

OMD also noted that section 1.1158 of the Commission's rules, 47 C.F.R. §1.1158, permits payment of regulatory fees by means other than mailing, such as electronic transfer.

00000 RROW - 94-061



RECEIVED & INSPECTED

CABLE VISION

The Sight • The Sound • The Future ED FCC P.O. Box 1147 Saluda, Virginia 23149

JUN 2 2004

FCC - MAIL ROOM

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FINANCIAL OPERATIONS CENTER

May 24, 2004

Mr. Mark A. Reger Chief Financial Officer Office of Managing Director Federal Communications Commission Washington, D.C. 20554

RE: Request for Waiver of FY 2003 Regulatory Late Fee (Fee Control No. 00000RRoG-04-050)
On Bill No. 0420000441 (25% late penalty for 2003 annual regulatory fee)
First Commonwealth Cablevision, Ltd.

Dear Mr. Reger:

I am in receipt of your May 10, 2004 letter advising us that our request to waive the assessed late fee in the amount of \$851.46 has been denied.

Enclosed is our check in the amount of \$851.46 as payment in full of the late charge as referred to on Bill No. 0420000441.

We believe our position was fairly stated in our previous correspondence and that we made every possible effort to make timely payment of the regulatory fee.

Please be advised that we make this payment of the late charge in protest and we request a re-consideration of the matter and a refund of the late fee.

Sincerely

William T. Newborg Vice President/GM

ce: Donald A. Perry President

WTN/rm

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RAMIS ACCOUNTS RECEIVABLE - (c) DSG, Inc.
RECEIPTS DETAIL REPORT
SORTED BY TRANSACTION DATE, CD No., FEE CONTROL No.

PAGE 1 7/27/2004 16:44:41

TRANSACTION RECEIPT AMOUNT DATE CD No. CD DATE FEE CONTROL No. PAYER NAME 0005013909 First Commonwealth Cablevision 7/13/04 \$851.46 6/23/04 0406238340407001A 561021

Billing No. 0420000441 Seq: PTC: 0399 Applicant Name: Address:

FCC Code 2:

Tin Number:

1 Call Sign: FCC Code 1: QTY: 1 Applied Amt:

851.46

Total Applied:

\$851.46

Total Receipt:

\$851.46



Non-Public For Internal Use Only

RAMIS ACCOUNT RECEIVABLES

Check Number Query Report

FEE Control Number: 0406238340407001

Customer FRN

: 0005013909

FRN Name

First Commonwealth Cablevision,

Check Number

: 196410000000

Receipt Amount

: \$0.00

Date Received: 06/22/2004

F1 NEXT

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7/27/2004 AFIPNLO

BILL EXISTS - XCR RANTS ACCOUNTS RECEI			79 TO 2213		DSG, Inc.	
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